IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11688 of 2004

Between:
1 Smt.Garga Rathamma W/o. Subba Rao
R/o. Dowleswaram Rajahmundry East Godavari District.
2 G.Subba Rao S/o. Chandra Rao
R/o.Dowleswaram Rajahmundry, East Godavari District.
..... PETITIONERS

And

1 The A.P State Wakf Board, rep. by Chief Executive Officer, Nampally, Hyderabad.
2 The Inspector Auditor, Wakf West Godavari District at Eluru.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the nature of mandamus declaring the order of the 1st respondent in his proceedings No.117/Prot/M6/W.G/2001 dt.9.6.2004 directing of Ac.1.16 cents in Sy.No.493/1 belongs to the 1st petitioner, and Ac.174 cents in Sy.No.495 belongs to the 2nd petitioner, situated at Bendlapalem Hamlet, Duvva Village, W.G.District as illegal, arbitrary and without jurisdiction and consequently direct the respondents not to interfere with the possession of the lands in any manner and pass such other order or orders in the interest of justice.

For the Petitioner:MR.T.S.ANAND, Advocate

For the Respondent No.1: SUBHANI.S.M., Advocate.

The Court made the Following :

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ORDER:

This writ petition is filed by the petitioners aggrieved by the proceedings of the respondent dated 09-06-2004, in which the petitioners were treated as encroachers and ordered vacation of the petitioners from the scheduled property. According to the petitioners, the scheduled property, which is an extent of Ac.1.16 cents in S.No.493/1 and Ac.1.74 cents in S.No.495 situated at Bendlapalem Hamlet, Duvva village, West Godavari District, is the absolute property of the petitioners and the respondent-Board has nothing to do with the same. But, however, a notice has been issued under section 54(3) of the Wakf Act, 1995, for which the petitioners have filed their objections. But, however, the grievance of the petitioners is that no proper enquiry, as contemplated, was conducted and without conducting such enquiry, the first respondent passed the order declaring that the property is wakf property and ordered the eviction of the petitioners. Therefore, the petitioners have come up with the present writ petition.

2. The learned Standing Counsel appearing for the first respondent, on the other hand, opposed the contentions of the petitioner. It is also contended that after proper enquiry with reference to the objections filed by the petitioners, the first respondent passed orders for the eviction of the petitioners, and if they are aggrieved by the said order, it is for them to approach the Wakf Tribunal by instituting proper proceedings to prove their title to the property. Therefore, the present Writ Petition is not maintainable.

3. Heard both sides and considered the material on record.

4. The issue is whether the property, which was declared as wakf property by the first respondent, is the wakf property or the private property of the petitioners. This issue has to be adjudicated only by the Wakf Tribunal constituted under the provisions of the Wakf Act, 1995. When a specific forum has been constituted under the statute, this court declines to entertain the present writ petition.

5. Accordingly, the writ petition is disposed of directing the petitioners to approach the Wakf Tribunal by instituting appropriate proceedings to prove their case. The petitioners are directed to approach the Wakf Tribunal within a period of eight weeks, and till then the respondents are directed not to evict the petitioners.

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08-07-2004 S.Ananda Reddy, J.

Note: Furnish copy in three days.

Jsu/kvh

To

1. The Wakf Tribunal, Andhra Pradesh, Hiderabad.
2 The A.P State Wakf Board, rep. by Chief Executive Officer, Nampally, Hyderabad.
3 The Inspector Auditor, Wakf West Godavari District at Eluru.
3. 2 CD copies.

HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.NO. OF 2004

ORAL ORDER

…07…2004